



Paper No. 12

KENNETH A GANDY  
WOODARD EMHARDT NAUGHTON  
MORIARTY & MCNETT  
BANK ONE CTR TOWER  
111 MONUMENT CIRCLE SUITE 3700  
INDIANAPOLIS, IN 46204

COPY MAILED

APR 01 2002

In re Application of  
Ho, et al.  
Application No. 09/180,340  
Filed: August 20, 1999  
Attorney Docket No. 7024109PUR48

:  
:  
:  
: OFFICE OF PETITIONS  
: DECISION ON PETITION  
:

This is a decision on the petition filed on January 18, 2002, under 37 C.F.R. §1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed April 12, 2000. This action set a shortened statutory period for reply of three (3) months. No extensions of time were filed. Accordingly, the above-identified application became abandoned on July 13, 2000. A Notice of Abandonment was mailed on January 19, 2001.

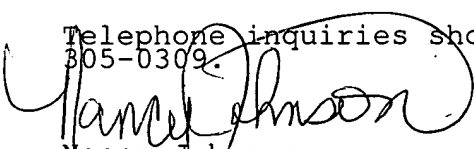
Petitioner contends that abandonment of the above-identified application was improper because the reply, an amendment, with a one-month extension of time were timely filed on Monday, August 14, 2000. In evidence, petitioner supplied copies of both the amendment and their return receipt postcard. The amendment bears a certificate of mailing dated August 14, 2000. The postcard reflects receipt of the amendment and request for extension of time in the Office of Initial Patent Examination (OIPE) on August 16, 2000.

Nonetheless, petitioner acknowledges that their argument for withdrawing the holding of abandonment was not timely raised pursuant to §1.181(f). The petition is not accompanied by a terminal disclaimer. See MPEP 711.03(C)I. Accordingly, petitioner, alternatively, explains the delay in filing a petition and requests that the application be revived under §1.137(b) as having been unintentionally abandoned.

Having considered the evidence, it is concluded that petitioner has met the requirements to revive the above-identified application, pursuant to 37 C.F.R. §1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the required statement of unintentional delay.

The application file is being forwarded to Technology Center 1653 for consideration of the amendment filed January 18, 2002 (and the Information Disclosure Statement filed August 16, 2000).

Telephone inquiries should be directed to the undersigned at (703) 305-0309.

  
Nancy Johnson  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy